

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

11 PROVIDENT LIFE AND ACCIDENT) No. CV 08-02763 VAP (SSx)
ASSURANCE CO., et al.,)
12 Plaintiffs and) **MEMORANDUM AND ORDER RE: PARTIES'**
13 Counterdefendants,) **STIPULATED PROTECTIVE ORDER**
14 v.)
15 EDWIN GROMIS,)
16 Defendant and)
Counterclaimant.)
17 _____)

The Court has received and considered the parties' proposed Stipulated Protective Order ("Protective Order"). The Court is unable to adopt the Protective Order as stipulated to by the parties for the following reasons:

First, the Court cannot agree to the procedure the parties' propose for the filing of papers under seal. (Protective Order at ¶ 4). If confidential material is included in any papers to be filed in Court, such papers shall be accompanied by an application, pursuant to Local Rule 79-5.1, to file the papers - or the confidential portion thereof

1 - under seal. The application shall be directed to the judge to whom
2 the papers are directed. Pending the ruling on the application, the
3 papers or portions thereof subject to the sealing application shall be
4 lodged under seal.

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6 Second, the Court will not agree that material filed in this action
7 will be designated "THIS ENVELOPE CONTAINS MATERIAL SUBJECT TO A
8 PROTECTIVE ORDER ENTERED IN THIS ACTION. IT IS NOT TO BE OPENED NOR ARE
9 ITS CONTENTS TO BE DISPLAYED, REVEALED OR MADE PUBLIC, EXCEPT BY ORDER
10 OF THE COURT" (Protective Order at ¶ 4(iii)(d)) because this designation
11 might suggest that the Court has made a determination about whether
12 particular material fits within the categories described by a Protective
13 Order entered in this case. If the parties wish to designate material
14 as confidential, they can mark documents "confidential" but should not
15 indicate that the Court has also reached a decision about the nature of
16 the documents.

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18 Finally, the Protective Order does not establish the requisite good
19 cause. Pintos v. Pac. Creditors Ass'n, 565 F.3d 1106, 1115 (9th Cir.
20 2009) ("The relevant standard [for the entry of a protective order] is
21 whether good cause exists to protect the information from being
22 disclosed to the public by balancing the needs for discovery against the
23 need for confidentiality." (internal quotation marks and alteration
24 omitted)); Foltz v. State Farm Mut. Auto Ins. Co., 331 F.3d 1122, 1130
25 (9th Cir. 2003) (court's protective order analysis requires examination
26 of good cause (citing Phillips v. Gen. Motors Corp., 307 F.3d 1206,
27 1210-11, 1212 (9th Cir. 2002)); San Jose Mercury News, Inc. v. United
28 States Dist. Court, 187 F.3d 1096, 1102 (9th Cir. 1999)).

1 The Court may only enter a protective order upon a showing of good
2 cause. Kamakana v. City and County of Honolulu, 447 F.3d 1172, 1176
3 (9th Cir. 2006) (stipulating to protective order insufficient to make
4 particularized showing of good cause, as required by Rule 26(c));
5 Phillips, 307 F.3d at 1210-11 (Rule 26(c) requires a showing of good
6 cause for a protective order); Makar-Wellbon v. Sony Electrics, Inc.,
7 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated protective orders
8 require good cause showing).

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10 In any revised stipulated protective order submitted to the Court,
11 the parties must include a statement demonstrating good cause for entry
12 of a protective order pertaining to the documents or information
13 described in the order. The documents to be protected shall be
14 specifically described and identified. The paragraph containing the
15 statement of good cause should be preceded by the phrase: "GOOD CAUSE
16 STATEMENT." The parties shall articulate, for each document or category
17 of documents they seek to protect, the specific prejudice or harm that
18 will result if no protective order is entered. Foltz, 331 F.3d at 1130
19 (citations omitted).

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In any revised stipulated protective order, the parties shall include the following in the caption: "[Discovery Document: Referred to Magistrate Judge Suzanne H. Segal]."

IT IS SO ORDERED.

/S/

DATED: January 20, 2010

SUZANNE H. SEGAL
UNITED STATES MAGISTRATE JUDGE